UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,485	01/06/2004	Tatsuhiro Sato	826.1915	3523

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
SHEDRICK, CHARLES TERRELL

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Advisory Action *Before the Filing of an Appeal Brief*	Application No.	Applicant(s)
	10/751,485	SATO, TATSUHIRO
	Examiner	Art Unit	
	Charles Shedrick	2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>19 October 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>see attached response to arguments.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 10/19/06 have been fully considered but they are not persuasive.

Applicant argues that Takahiro does not teach "Service-Synchronous" position information. It appears the Applicant is arguing the distinguishing features between Service-Synchronous and Service –Asynchronous.

The Examiner respectfully submits that the previous rejection is based on the examples given from the Applicant Specification or entities that parallel the features that could be interpreted based on the conclusions drawn from the specification.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

 For clarification the Applicant states that Takahiro does not mention the case in which a server requests a user to send its own position, however the claim language of the claim does not explicitly state what the Applicant is arguing: that is "a server requests a user to send its own position" therefore, the examiner relies on the specification to determine how "service-synchronous vs. service-asynchronous (information or terminal) might be interpreted in addition to the actual meaning of synchronous vs. asynchronous. Based on the definition, synchronous vs. asynchronous is defined with respect to timing and that timing defined with respect to a clock internal or external. The body of the claims as written are not defined in a way that one of

ordinary skill in the art would distinguish a/an asynchronous or synchronous terminal that

sends/receive information (thus defining asynchronous or synchronous information) in the cited

prior art from the Applicant claimed invention. According to the Applicant Specification [0059]

The *service synchronous type system* is a system for announcing position information when a

user actually receives a service using an information terminal through the Internet, etc. from a

service provider who offers various services. The service asynchronous type system is a system

of regularly or irregularly announcing position information although a service is not requested as

in the AT command communications using a modem. The specification provides examples such

as [0060] In FIG. 2, *a terminal 11 of a Bluetooth LAN, a personal computer 12 connected to a*

LAN, and a modem terminal 13 using an AT command provide position information of the

service asynchronous type system for a service asynchronous position information acquisition

device 16. The *service asynchronous* position information acquisition device 16 is assumed to

obtain position information corresponding to various positioning systems without restrictions of

an exclusive protocol of, *for example, the HTTP communications*, and is assumed to comprise a

communications device and a connection interface to obtain the information. [0061] *A car*

navigation terminal 14, a PHS terminal 15, and a mobile phone terminal not shown in the

attached drawings are to provide service synchronous type position information for an external

device, and the position information is directly provided for a service synchronous type position

information acquisition device 17 in the HTTP (hyper text transfer protocol) communications.

The service synchronous type position information acquisition device 17 plays the most

important role in the present embodiment, and centrally manages the position information from

all terminals including the position information from a service asynchronous type position

information transmission terminal obtained by the service asynchronous position information acquisition device 16.

Takahiro teaches a service-synchronous position information acquisition unit (i.e., unit 18 and 15 in combination or alone) receiving data including position information from service-synchronous information terminals (i.e., a system for announcing position information when a user 5 actually receives a service using an information terminal through the internet 1) that announce position information when requesting a service and that support plural types of different communications protocol and/or data format (i.e., data server 18 holds various kinds of content for accessing users that are registered to receive the service. User can request position information via a registered service and obtain maps from per request from the data server. Multiple protocols are supported within the system 10 via the gateways 11,12, and 13 in combination or alone with various other components of the system)(i.e., see at least **paragraphs 0017 and 0018**).

The Examiner respectfully submits that the previous rejection is based on the examples given from the Applicant Specification or entities that parallel the features that could be interpreted based on the conclusions drawn from the specification.

Based on the reasons stated above the rejection is maintained as proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Shedrick whose telephone number is (571)-272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kincaid Lester can be reached on (571)-272-7922. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Charles Shedrick
AU 2617
November 16, 2006

LESTER G. KINCAID
· SUPERVISORY PRIMARY EXAMINER